



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]
ENE/155771

PRELIMINARY RECITALS

Pursuant to a petition filed February 25, 2014, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Energy - Milwaukee County in regard to Energy Assistance, a hearing was held on May 20, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether sufficient information has been submitted by the local energy assistance agency in Milwaukee County to demonstrate that it correctly denied Wisconsin Home Energy Assistance Program (WHEAP) benefits to Petitioner.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Administration
101 East Wilson Street
Madison, Wisconsin 53703

By: No appearance, Energy Services Worker
Energy - Milwaukee County
Milwaukee, WI

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner applied for WHEAP benefits in December 2013.
3. Petitioner's December 2013 WHEAP application was apparently approved but the approval rescinded. The local energy assistance agency sent Petitioner a letter dated February 19, 2014 that indicated that Petitioner's application had been canceled due to an error on the application. The error was not described but the notice also indicates that the application exceeded 31 days.

DISCUSSION

WHEAP is mandated by Wis. Stat. §16.385. The Department of Administration administers the program. §16.385(2) (a). The Department does so by publishing the *Wisconsin Home Energy Assistance Program, Program and Operations Manual (Manual)*. The *Manual* must follow the mandate of the statute, but it is up to the Department to specify policies where the statute is silent. The Wisconsin Home Energy Assistance Program (WHEAP) is an umbrella term covering two different though similar programs, one funded by the federal government (Low Income Home Energy Assistance Program - LIHEAP) and one funded from fees collected through the electric utilities (Public Benefits program - PB). *See Manual, §1.1*

Without an appearance, or at least the submission of some evidence from the local energy assistance agency, there is no way to determine what the problem was with Petitioner's energy assistance case. This leaves no option but to direct that the local energy assistance agency reprocess Petitioner's December 2013 energy assistance application and issue benefits if approved and, if denied, to issue a detailed written explanation as to why denied from which Petitioner may again appeal.

CONCLUSIONS OF LAW

That there is not sufficient evidence available from the local energy assistance agency to demonstrate that it correctly denied Petitioner's application for energy assistance.

THEREFORE, it is

ORDERED

That this matter is remanded to the local energy assistance agency with instructions to take the steps necessary to reprocess Petitioner's December 2013 energy assistance application and issue benefits if approved and, if denied, to issue a detailed written explanation as to why denied from which Petitioner may again appeal. The agency must take these actions within 10 days of the date of this Order.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Administration. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department,

either personally or by certified mail. The address of the Department is: 101 East Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 16th day of July, 2014

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on July 16, 2014.

Energy - Milwaukee County
DOA - Energy Assistance